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February 4, 2019

VIA ECF

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Keith Raniere, et al., 18 Cr. 204 (NGG)

Dear Judge Garaufis:

We write to supplement our Third Motion for Bond (Dkt. 303) and Reply Letter filed on January 31, 2019 (Dkt. 314) in light of, among the many other factors set forth in previous motion papers, the conditions at MDC Brooklyn.

On January 25, 2019, Raniere filed a Motion for Immediate Release Pending Trial arguing, in part, that he “must be released as a matter of fundamental fairness under the Due Process clause of the United States Constitution.” (Mot. for Bond at 1.) Shortly after the Due Process motion was filed, and while it remained pending, an apparent fire at the MDC led to what appears to be an unprecedented, systematic breakdown of that facility’s ability to provide basic human necessities to the human beings held captive against their will. This is an affront to civilized society in any setting. It is especially so here given the fact that the majority of the human beings in that facility await trial and indeed remain INNOCENT of any crime.

On January 29, 2019, after not being able to speak or visit with our client since the January 28th court appearance, we received two urgent messages from Assistant Federal Defenders in New York who relayed messages from Raniere.¹ As we noted in our Reply Letter, Raniere relayed that MDC had been without heat, electricity, hot water, commissary, warm food—basic essentials—since January 27, 2019. (*Id.* at 1.) He also reported noxious fumes in his unit. (*Id.*) After conferring

¹ Although the phones were not working, at certain points, the Federal Defender phone was working in the MDC.

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with several Federal Defenders to assess the situation in the MDC, we alerted this Court to Raniere's extreme deprivation of rights in our January 31th letter.

On February 1, 2019, Dierdre Von Dornum, Attorney-in-Charge of the Federal Defenders of New York, was able to tour the MDC for approximately four hours pursuant to Chief Judge Irizarry's Order. Ms. Von Dornum spoke to Raniere and confirmed that his unit has noxious fumes, smells acrid, and that he and others have woken up through the night with headaches. As a testament to the basic lack of safe living conditions, water in Raniere's cell was freezing in his drinking cup. Additionally, despite the warden's claim to Ms. Von Dornum that the inmates had not be on constant lock-down, Raniere confirmed that they had indeed been locked-in for the majority of the week.

As of today, February 4th, over a week after the situation first started, heat and lights are back on, but computers are still down. However, the situation remains precarious. Legal visiting was still cancelled up to Sunday, February 3, 2019. And news outlets such as the New York Times and New York Daily News reported that protestors were sprayed with pepper spray.²

As a result of officials who, in the words of Rep. Jarrold Nadler, "have been callously placing the health and safety of inmates at [MDC] at risk,"³ several judges are holding hearings to address bail motions filed with the courts. Later today, February 4 at 11:00am, Judge Ann Donnelly in the Eastern District of New York is holding a hearing in United States v. Sanchez, 19CR14 (AMD). On Tuesday, February 5 at 11:00am, Judge Analisa Torres of the Southern District of New York is holding an evidentiary hearing where the "BOP shall produce witnesses who can address the [disturbing living conditions] raised" and "who can offer an explanation and timeline with respect to when electrical power will be restored (temporarily and long-term) and how they will provide heat in the interim." United States v. Segura-Genao, 18CR219 (AT) at Dkt. 80. "The defense may call witnesses who can testify as to the conditions at MDC." (*Id.*) Accordingly, Raniere asks that he be permitted to supplement his standing motion for release based on a wholesale violation of his Due Process rights following the hearings in these two matters.

Obviously, the recent events at the MDC impact upon the human rights of the population of the MDC in a general sense. However, it is significant that Raniere made the instant Due Process motion even before these events took place. Raniere has been trying to get a trial since his first appearance in this District in the Spring of 2018. He has indicated on the record repeatedly and has demanded in successive written motions that the Department of Justice either try him or agree

² Annie Correal, Andy Newman and Christina Goldbaum, Protesters Try to Storm Federal Jail in Brooklyn With Little Heat or Electricity,

<https://www.nytimes.com/2019/02/02/nyregion/brooklyn-federal-jail-heat.html>, Feb. 2, 2019; Clayton Guse, Elizabeth Elizalde And Trevor Kapp, Lights Back On At Feds' Brooklyn Lockup After Violent Protest Over Prisoners' frigid conditions, <https://www.nydailynews.com/new-york/ny-metro-mdc-brooklyn-heat-protest-20190203-story.html> (Feb. 3, 2019).

³ Rep. Jerrold Nadler (D-N.Y.) who has been instrumental in bringing attention to this human disaster was quoted saying this. https://www.washingtonpost.com/nation/2019/02/03/protesters-swarm-dark-freezing-brooklyn-jail-that-endured-polar-vortex-with-no-heat/?utm_term=.531a22bd659e.

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to release him. He has stated in the most emphatic terms time and again that he and his counsel want a trial immediately; we have wanted a trial immediately for ten months. And, for ten months, despite repeated bail motions, and despite repeated demands for a prompt trial, Raniere has been condemned as an absolutely innocent man to the conditions that will be brought to light, we hope, in the hearings to take place over the next two days.

We, therefore, respectfully ask for the ability to supplement Raniere's Due Process motion based on the facts elicited at the upcoming hearings.

Respectfully submitted,


Marc Agnifilo (TRG)
Teny Geragos

cc: All Counsel (via ECF)